

OFFICE OF THE DIRECTOR  
DEPARTMENT OF MOTOR VEHICLES  
P.O. BOX 932328  
SACRAMENTO, CA 94232-3280



## **I. NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (department) proposes to amend Section 160.00 and adopt Sections 160.02, 160.04, 160.06, 160.08, 161.00, 161.02, 161.04, and 161.06 in Article 3.1, Chapter 1, Division 1, Title 13 of the California Code of Regulations, relating to California sponsored license plate programs including Special Interest License Plates, Specialized License Plates, and Commemorative Collegiate License Plates.

- **Public Hearing:** A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.
- **Deadline for Written Comments:** Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., **August 21, 2017**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.
- **Authority and Reference:** The department proposes to adopt this regulation under the authority granted by Vehicle Code section 1651 and 5110 in order to implement, interpret, or make specific Vehicle Code sections 1653, 1653.3, 1653.5, 1808, 4150, 4460, 4466, 4850, 5024, 5060, 5101, 5105, 5106, 5110, 5155, 5156, 5157, 5159, 5160 and 8802; Sections 2721 through 2725, Title 18, United States Code; and *Walker v. Texas*, 135 S.Ct. 2239 (2015).

## **II. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The department registers vehicles and vessels, and provides license plates for registered vehicles. The department relies on specifications in the Vehicle Code for the size of the plate and the location of some identifying criteria, and on Department of California Highway Patrol (CHP) to determine safety and visibility standards for plates. Plate colors and designs have changed over the decades, but each plate bears a unique number regardless of its color or series. The department creates and manages many specialized and specialty license plates in addition to creating and assigning regular series license plates for all vehicles. In Articles 8, 8.4, 8.5 and 8.6, of Chapter 1 of Division 3 of the Vehicle Code, license plate programs allow sponsors to propose plate programs to the department to raise revenue for specified programs. Vehicle Code section 5024 allows a college to sponsor a commemorative collegiate license plate to raise money for the California Student Aid Commission. In Article 8.6, state agencies may sponsor

plate programs to raise money for a variety of programs. These are called Specialized License Plates (SLP). Some plate proposals are specified in the Vehicle Code, and direct an agency to develop a plate, but there is a general provision allowing any state agency to independently apply to the department to sponsor a plate even without a specific legislative directive to do so. Also, although currently suspended by legislation, Article 8.4 allowed some private entities to sponsor plate programs to raise money for private use. These are known as Special Interest License Plates (SILP). A well-known example of this is the Yosemite plate created in Vehicle Code section 5064.

Each of these sponsored plate statutes have similar requirements. They require the sponsor to design a plate, enroll a large number of potential participants into the proposed program before it is approved, to collect pre-payments from participants, and to notify participants after a year if the enrollment threshold is not achieved. For state agency sponsors, the enrollment period can be extended to two years. For plate programs where the sponsor also receives the revenue from the department, the department is responsible for reviewing annual accounting reports, and is required to discontinue plate programs if excessive funds are spent on administration of the plate program. Termination of each sponsored plate programs is also required if participation by registered owners falls below statutory minimums.

The department deducts its administrative costs from the statutory fees required to obtain a sponsored plate. Then the department transfers net revenue to the designated programs.

Sponsored plates can also reflect a personalized registration number, at the request of the registrant. There is an added fee for this personalized option, and the revenue from personalization goes to the Environmental License Plate fund established in Article 8.5.

Historically, messages and images on license plates were considered by the federal courts to be either a public forum for private speech, or mixed government and private speech, and therefore implicate the First Amendment rights of those who wish to use the license plate forum to express a viewpoint or message. However, in June of 2015, the U.S. Supreme Court ruled in the case of *Walker v. Texas*, 135 S.Ct. 2239, that all messages and images on license plates are government speech. The government can decide the content of a plate regardless of the potential impact of not including some citizens' message, and not be considered to be infringing upon the first amendment rights of individuals.

The department anticipates more agencies will apply for plate programs. This proposal establishes uniform and efficient requirements any sponsor must follow in order to establish a license plate program.

**Problems the Department Intends to Address Through These Proposed Regulatory Action:**

1. Individualized procedures for each sponsor consume staff resources to advise sponsors at each step in the process.
2. Untimely transfer of applications and fees to the department delays production of plates.
3. Sponsors distributing erroneous information in marketing materials misleads the public.
4. Sponsors obtain personally identifying information from registered owners, and currently there is no requirement to maintain its confidentiality.
5. The submission and acceptance of multiple designs for prototype testing delays program development and consumes resources unnecessarily.
6. Failed plate programs that are cancelled due to lack of interest consume department resources that can never be recovered since no plate sales occur from which administrative costs are to be deducted.

**Effect of the proposed rulemaking:**

The effect will be more efficient and successful plate program developments by state agencies and colleges, which in turn raises more revenue for government programs and student aid.

**Anticipated Benefits and Broad Objectives of the Proposals:**

These proposed regulations will provide clear, specific and effective requirements for sponsors of Specialized and Commemorative Collegiate plates to efficiently develop a plate program. These programs are designed in the statutes to be cost neutral to the department and at the same time easy to develop and promote by sponsors. Plates that are visually appealing, support popular government programs or schools, and have no negative impact on safety are needed to meet the fundraising purposes.

Specific changes are as follows:

**Section 160.00**

This revised section contains definitions used in these proposals. Sections of existing 160.00 regarding annual reporting of administrative costs by a Special Interest Plate sponsors are moved to new section 160.02.

**Section 160.02**

Any sponsor of a successful plate program who receives the funds generated by the program is required to complete a report of expenditures, including administrative costs, and submit it to the department.

**Section 160.04**

This section contains the information a sponsor must submit to the department to initiate a plate program. This includes the technical specifications for plates, agreeing to indemnify the department for claims arising out of the plate, a marketing plan and a financial plan.

#### Section 160.06

This section prohibits a sponsor from advertising that a plate is available prior to approval of the plate program by the department, and limits design changes after department approval has been given.

#### Section 161.00

This section describes how a sponsor enrolls potential participants, including the information and fees to be collected, limitations on plate orders paid for by someone other than the registered owner, limitations on the sponsors' use of enrolling registered owners' personal information, and reporting requirements during the enrollment period. This section also requires the sponsor to refund fees during the enrollment period if requested by an enrolled registered owner.

#### Section 161.02

This section contains the process the department uses after the minimum number of enrollees have joined the proposed plate program. The rules here pertain to delivering the fees and the list of enrollees to the department for processing and verification.

#### Section 161.04

This section describes the process for redesigning a plate after it is put into production.

#### Section 161.06

This section contains the unique requirements for a Commemorative Collegiate Plate, such as the qualifications of a sponsor and limitations on the design criteria.

#### **Additional Determinations:**

- **Consistency and Compatibility with State Regulations:** The department has conducted a review of other regulations related to the issuance of motor vehicle license plates. In doing so, the department has determined that this regulatory action is both consistent and compatible with other state regulations.
- **Comparable Federal Statutes or Regulations:** The department has conducted review of federal and state statutes and determined none fulfill this purpose or achieve the benefit of these proposals, or are otherwise comparable.
- **Documents Incorporated by Reference:**
  - CA Department of Motor Vehicles License Plate Template, Form REG 933 (VER. 9/6/2016)

These documents will not be published in the California Code of Regulations because it would be impractical and cumbersome to do so; however, the documents are readily available to interested parties on the department's internet website or by contacting the department representative identified below.

- **Federal Law or Regulation Mandate:** These regulations are not mandated by federal law or regulations.
- **Local Agency/School District Mandate:** The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

### **III. IMPACT ASSESSMENTS**

#### **Economic And Fiscal Determinations:**

The department has made the following initial determinations concerning the proposed regulatory action:

- **Cost or Savings to Any State Agency:** None.
- **Other Non-Discretionary Cost or Savings to Local Agencies:** None.
- **Costs or Savings in Federal Funding to the State:** None.
- **Effects on Housing Costs:** None.
- **Impacts Directly Affecting Businesses:** The proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- **Cost Impact on Representative Private Persons or Businesses:** The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- **Small Business Impact:** The proposal will not have an economic or fiscal impact on small business. There is no impact because the requirements only affect government or other entities who wish to sponsor or who currently sponsor a license plate program.
- **Local Agency/School District Mandate:** The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

**Results of the Economic Impact Statement:**

The department has made the following determinations when assessing the economic impact associated with this proposed regulation:

- **Creation or Elimination of Jobs Within the State of California:**  
The proposed action establishes procedures for specialized and collegiate plate sponsors to follow when seeking approval from the department to launch a plate program to fund designated programs. Because the proposal only imposes requirements on government entities who seek to raise funds, the department does not anticipate any impact on the creation or elimination of jobs within California.
- **Creation or Elimination of Existing Businesses Within the State of California:**  
The proposed action establishes requirements for specialized and collegiate plate sponsors to follow when seeking approval from the department to launch a plate program to fund designated programs. Because the proposal only imposes requirements on government entities who seek to raise funds, the department does not anticipate any impact on the creation or elimination of existing businesses within California.
- **Expansion of Businesses Currently Doing Business in the State of California:**  
The proposed action establishes requirements for specialized and collegiate plate sponsors to follow when seeking approval from the department to launch a plate program to fund designated programs. Because the proposal only imposes requirements on government entities who seek to raise funds, the department does not anticipate any impact on the expansion of businesses currently doing business within California.
- **Benefits of Regulation to the Health and Safety of California Residents, Worker Safety and the State's Environment:**  
This action may increase benefits to Californians in that it creates streamlined and efficient plate program development requirements which will provide greater efficiency to state agencies who attempt to raise money for specific programs that may in turn impact the health and welfare of California residents.

**IV. ADDITIONAL INFORMATION**

- **Public Discussions of Proposed Regulations:** A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.
- **Alternatives Considered:** The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private

persons and equally effective in implementing the statutory policy or other provisions of law.

- **Contact Person:** Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Tracy Brazil, Regulations Analyst  
Department of Motor Vehicles  
Legal Affairs Division  
P.O. Box 932382, MS C-244  
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657-8919  
Facsimile: (916) 657-1204  
E-Mail: [LADRegulations@dmv.ca.gov](mailto:LADRegulations@dmv.ca.gov)

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Randi Calkins, Regulations Analyst  
Telephone: (916) 657-6469

- **Availability of Statement of Reasons and Text of Proposed Regulations:** The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at <http://www.dmv.ca.gov/portal/dmv/dmv/dmvhomes/regulatoryactions>.

- **Availability of Modified Text:** Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be

addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.